

REMARKS

In response to the requirement for restriction mailed May 5, 2008, Applicants hereby elect Group I, claims 1-15, in part, drawn to the process of making bis(perfluoroalkyl)-phosphinate anion of the formula $[(R^F)_2P(O)(O)]$ -thereof, wherein the tris(perfluoroalkyl)-phosphine oxide represents the formula $(R^F)_3P=O$ thereof, and their method of use. In response to the requirement to elect a single species, Applicants hereby elect N-ethylpyridinium bis (pentafluoroethyl) phosphinate. The requirement for restriction is respectfully traversed.

The current restriction/election requirement is highly unusual, in that it arbitrarily divides *all* of claims 1-15 into two groups dependent upon the formula of the phosphinate anion (claim 1 is generic to all phosphinate anions without regard to structure), and then *further* requires an election of species.

First, it appears that Group I, in fact, contains the entirety of the invention, compare the phosphinate anion and phosphine oxide formulae set forth at page 2 of the Office Action, with page 3, lines 20-26 of the specification. The Examiner is invited to suggest specific materials which he or she believes are contained in Group II.

It is moreover submitted that, in a generic Markush claim such as present claim 1, separation of the claim into separate groups, rather than an election of species, covering the entire scope of the claim is improper. It is submitted that the restriction requirement violates rules 13.1 and 13.2, as explained in annex B of the administrative instructions under the PCT. Section (f) of annex B discusses in detail Markush practice, and indicates that where a "Markush grouping" is for alternatives of chemical structures, they *shall* be regarded as being of a similar nature, and meeting the requirement of a same or corresponding technical feature (and thus, unity of invention) if they (A) have a common property or activity, or (B) (1) have a common structural element. In fact, both of these alternatives are satisfied herein. All of the phosphine oxides of the claims are useful to make phosphinate anions, and all of the phosphinate anions of the claims are useful in the preparation of ionic liquids, as phase-transfer catalysts, surfactants, conductive salts and electrochemical cells and as plasticizers. The subsequent Office Action is invited, should it attempt to maintain the restriction requirement, to provide a further explanation, for the

purposes of focusing a petition, as to why it is believed that all of the materials used in the claim process do not contain a significant structural feature, i.e., a special technical feature, and, moreover, a significant property in common.

It is important to note that the discussion of patentability over the prior art, which appears to be the basis for the restriction requirement, it is *not* one of the factors to be considered in Markush practice. It is suggested that the Examiner carefully study the above-noted annexes to the administrative instructions.

Accordingly, it is clear that the restriction requirement must be withdrawn, and the same is respectfully requested.

It is noted, finally, that various typographical and grammatical corrections have been made to the claims, in order to render them in a form more usual for U.S. practice.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

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